

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL
CITY COUNCIL MEETING
MINUTES - JUNE 26, 2002**

CALL TO ORDER

Chairperson/Mayor Kennedy called the meeting to order at 6:34 p.m.

ROLL CALL ATTENDANCE

Present: Chairman/Mayor Kennedy, Agency/Council Members Tate, Sellers
Late: Agency/Council Members Chang(arrived at 6:45 p.m.), Carr (arrived at 7:10 p.m.)

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

Agency Counsel/City Attorney Leichter announced the following closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:
CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

OPPORTUNITY FOR PUBLIC COMMENT

Chairperson/Mayor Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Chairperson/Mayor Kennedy adjourned the meeting to closed session at 6:35 p.m.

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced that there was no reportable action taken in closed session.

PLEDGE OF ALLEGIANCE

At the invitation of Chairperson/Mayor Kennedy, Police Captain Carey Sullivan led the Pledge of Allegiance.

SILENT INVOCATION

Chairman/Mayor Kennedy requested that those who have lost their lives in defense of our country, including police officers, fire fighters, and servicemen be kept in thoughts and prayers.

RECOGNITION

Chairman/Mayor Kennedy presented Wanda Puder, Wayne Tanda and Bill Weber with Certificates of Appreciation for their years of service as Parks & Recreation Commissioners.

Chairman/Mayor Kennedy presented Police Captain Carey Sullivan with a Certificate of Appreciation for his dedication and years of service to the City of Morgan Hill.

Chairman/Mayor Kennedy presented Fran Hendrickson and Joan Dellamaggiore, Reach Out Program at St. Catherine's Church, with a Certificate of Recognition for a successful program that provides food to members of the community in need. He indicated that June 5, 2002 was declared the first Hunger Awareness Day. This recognition is in support and recognition of programs that support those who are hungry and in need throughout the community and the country.

Agency/Council Member Chang left the dias.

PUBLIC COMMENT

Chairperson/Mayor Kennedy opened the floor to comments for items not appearing on this evening's agenda.

Craig Van Keulen requested to recognize the Country's national men's soccer team for their tremendous success in the quarter finals of the World Cup. The team stepped up to the level of the

women's team. This is in large part to youth programs that they come from that is similarly offered in Morgan Hill. He said that his organization has already passed its registration time period and that they would not be able to pass any proposed increase onto families. The organization would like to see a plan from the School District in terms of maintenance of fields that they are now seeking to collect money. He stated that it was an honor and a pleasure to serve with outgoing Parks and Recreation Commissioners Puder, Tanda and Weber. He stated that he has known Captain Sullivan since he came to Morgan Hill, an asset of the City of Morgan Hill that will be lost.

Council Member Tate stated that the country will be celebrating the anniversary of the birth of our nation once again. In the wake of 9/11 and the way the entire nation has come together, the Fourth of July will have a special meaning for everyone this year. He invited the community to participate in the Fourth of July events, including the 5-K run/walk, to commemorate this day that is put on by Independence Day Inc., in cooperation with the City.

City Manager Tewes stated that the Live Oak High School Emerald Regime Band would not be a part of the Fourth of July Parade as they are representing the State of California in Washington, D.C. on the Fourth of July. He wished the Emerald Regime group well. He indicated that last week, the Council received a presentation from Charter Communication. He said that there has been some confusion about discounts for senior citizens for cable service. He stated that the City has a franchise contract with Charter Communications and that under this franchise, they are required to provide a 10% discount to senior citizens 65 and over without regard to income for basic service. Staff has reminded Charter Communications about this requirement, indicating that many satisfied customers have reported that they have had no trouble in getting the discount recently. He invited individuals who are having difficulties receiving the discount to contact City staff.

Mayor Kennedy stated that he just returned from the U.S. Conference of Mayors held in Madison, Wisconsin. It was found that many cities like Morgan Hill have a lot in common and have dealt with problems being dealt with by the City. He said that the City is ahead in some areas and that the City can learn from cities in other areas. He indicated that he and City Manager Tewes attended the All American Cities Conference in Kansas City to consider whether or not the City wants to apply to become an All American City, noting that it is a major effort and that it can be expensive. He indicated that he spoke with Santa Clara Mayor Judy Nadler. He said that the City of Santa Clara was designated as an All American City last year and that Mayor Nadler was positive about all the benefits that it has brought to their City. He also visited medical facilities in Peewalky, Wisconsin, specifically of an ambulatory surgery center and urgent care facility that he was referred to as a possible model for a facility in the existing hospital facility.

No further comments were offered.

CONSENT CALENDAR:

Redevelopment Agency Action

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Redevelopment Agency, on a 4-0 vote with Vice-chairwoman Chang absent, **approved** Consent Calendar Item 1, as follows:*

1. MAY 2002 FINANCE & INVESTMENT REPORT

Action: ***Accepted** and **Filed** Report.*

City Council Action

Council Member Tate requested that item 7 be pulled from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers the City Council, on a 4-0 vote with Council Member Chang absent, **approved** Consent Calendar Items 2-6, 8, and 9 as follows:*

2. 2002-03 WORKPLAN

Action: ***Accepted** 2002-03 Workplan.*

3. AWARD OF CONTRACT TO PROVIDE PUBLIC WORKS INSPECTION SERVICES ON AN AS-NEEDED BASIS

Action: *1) **Approved** a Professional Services Contract with Testing Engineers, Inc. (TEI) to Provide Public Works Inspection Services on an As-needed Basis at a Not-to-exceed Cost of \$127,000 for FY 02-03 (Contingent on Approval of the 2002/2003 Budget), and 2) **Authorized** the City Manager to Execute the Contract.*

4. ACKNOWLEDGMENT OF NO BIDS FOR SIDEWALK, CURB & GUTTER REPLACEMENT PROJECT

Action: *1) **Acknowledged** That No Bids Were Received, and 2) **Authorized** Staff to Negotiate a Contract with a Qualified Contractor to Perform the Work per Public Contract Code Section 20166.*

5. AWARD OF CONTRACT TO PROVIDE PLAN CHECKING SERVICES ON AN AS-NEEDED BASIS

Action: *1) **Approved** FY 02-03 Professional Services Contract with Harris & Associates to Provide Contract Plan Checking Services on an As-Needed Basis at a Not-to-exceed Fee of \$120,000, Subject to Adoption of the FY 02-03 Budget; and 2) **Authorized** the City Manager to Execute the Contract.*

6. AWARD CONTRACT FOR CONSTRUCTION OF THE EDMUNDSON RESERVOIR PROJECT

Action: *1) **Awarded** Contract to Chicago Bridge & Iron for Construction of the Edmundson*

*Reservoir in the Amount of \$1,338,168.00; 2) **Approved** an Amendment to the Schaaf & Wheeler Design Contract Not-to-exceed \$83,076.00 for Construction Phase Services; and 3) **Approved** a Construction Contingency of 20% of the Construction Contract for the Edmundson Reservoir Project, Not-to-exceed \$267,600.00.*

8. EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES

Action: ***Authorized** the City Manager to Execute an Extension to the Consultant Services Agreement for Contract Planning Services at a Cost Not-to-exceed \$15,000.*

9. UTILITY BILLING SOFTWARE PURCHASE AND INSTALLATION

Action: ***Authorized** the City Manager to Execute a Contract for a New Utility Billing Software System with Incode, Inc. in the Amount Not to Exceed \$110,000.*

7. AWARD CONTRACT FOR CONSTRUCTION OF 2002/2003 TRAFFIC SIGNALIZATION PROJECT

Council Member Tate indicated that he understood the report but that he did not understand how the projects were grouped. He stated that he is aware that one project is not being completed this year: the Tennant and Highway 101 intersection. He did not understand where the Condit Road/East Dunne Avenue portion was proposed for completion (e.g., this fiscal year or another fiscal year).

Director of Public Works Ashcraft responded that the three projects are being awarded this fiscal year are: Condit/Dunne, Hill/Dunne, and Diana/Butterfield to be built within the next 90 days. The staff report explains that the next project, Highway 101/Dunne, is also funded this year but that the design is behind schedule as it has to be approved by Caltran. He said that the design will go out to bid two to three months later, followed by award of contract.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent: 1) **Awarded** Contract to GAB Construction for Construction of the 2002/2003 Traffic Signalization Project in the Amount of \$456,000; and 2) **Approved** 10% Construction Contingency in the Amount of \$45,600.*

PUBLIC HEARINGS:

City Council Action

10. APPEAL OF SUBDIVISION APPLICATION SD 01-04: MCLAUGHLIN-JONES

Mayor Kennedy noted that there is a request to continue this item. He opened the public hearing for this item. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Continued** the public hearing to July 17, 2002.*

Council Member/Vice-chairwoman Chang resumed her seat on the dais.

Redevelopment Agency and City Council Action

11. PUBLIC HEARING FOR ADOPTION OF FISCAL YEAR 2002-2003 BUDGET – Resolution Nos. 5589 and MHRA 241

City Manager/Executive Director Tewes stated that the budget being presented is based upon policy guidance given to staff by the Council earlier in the year when staff first brought to its attention the adverse effects that the economic recession and 9/11 were having on local revenues. He stated that it became necessary to cut back spending this year and that staff proposes that the City take advantage of the reserves for economic uncertainty. However, staff believes that the City will end this year roughly balanced. Next year, in the face of increasing costs, including labor negotiated contracts and continued sluggishness in the revenues, the budget being proposed has an operating deficit of approximately \$262,000. The budget proposes to dip into the reserve for economic uncertainty next year to this amount. He noted that the Council established these reserves to even out spending patterns so that when the City is in good times, the City does not staff up to the higher level only to learn that the next year the City would need to cut back. He said that use of the reserves helps to moderate the impacts and would provide some certainty and stability for the community. Based on prior workshops, staff has made some modifications to the budget and that the Council has been provided supplemental information. He stated that the effects of the State's budget on local budgets are unknown at this time. He said that cities are pleased that the Governor is not proposing to balance the States' budget on the backs of cities, noting that the State's budget has not yet been adopted. He indicated that the Council has in place policies and that it is his understanding that the Finance & Audit Committee (Committee) will be recommending other policies this evening that provide for constant monitoring of the budget so that mid course corrections can be made as the year proceeds.

Finance Director Dilles presented the staff report and indicated that proposed revisions to the budget are summarized in attachment A to the staff report. He informed the City Council that the Committee discussed whether it was appropriate to present a budget that shows more expenditures than estimated revenues for next fiscal year in the amount of a \$262,000 deficit. He indicated that the City does have \$10+ million in reserves. He stated that the Committee is continuing to look at the City's reserve policies and that they should be bringing recommendations back to the City Council soon regarding the types of reserves the City should have, how much reserves should be in place, how the reserves are to be used for, and how the City plans for the future. He indicated that a supplemental handout was distributed this evening from the Committee, comprising Mayor Pro Tempore Carr as chair, Council Member Tate, and Mike Roorda, City Treasurer. The Committee considered the fact that the City has some vulnerability or risk that the State may take additional monies from cities. The Committee came up with three recommendations as listed in the supplemental report from the Committee. He indicated that two resolutions are before the City Council that would: 1) adopt the City's budget and approve the City's appropriations limits, and 2) adopt the Redevelopment Agency's budget. He pointed out that the City's appropriation limits continue to be very high so that the City is not constricted in terms of the size of the budget that the Council can adopt.

Mayor Pro Tempore/Agency Member Carr indicated that at the last Committee meeting, concerns were raised with the fact that there is a small deficit predicted in the budget and how it should be dealt with. Open discussions were undertaken by staff, the City Manager, City Treasurer and the Committee to talk about the possible impacts to the City to see if there was a way to achieve a zero sum budget. It was noted that cuts would need to be made. Also, discussed were the strong reserves in the General Fund and how best to utilize the reserves in order to avoid cuts for the citizens of Morgan Hill. It was felt that it was prudent to move forward with the existing budget and not open it up and look at ways to perform line item cuts to try to make up the \$262,000 deficit. The Committee will be establishing goals for managing the budget in working with the Council, staff and the Committee to try to make up the \$262,000. The Committee took a look at the spending patterns of the Council and the additional general fund expenditures that it has approved over the past year in the amount of approximately \$650,000. In tough economic times such as this, he felt that the Council needs to be fiscally prudent when budget adjustments come before the City Council. The Committee has asked staff to help them when the Council is considering additional expenditures and that the City think about those in terms of the entire general fund. The Committee does not believe that these expenditures should be considered in a vacuum but on their merits in respect to the entire general fund. The Committee also felt that there should be a higher level of oversight of the budget adjustments and the levels of reserves. It was felt that the Committee should, on a regularly basis, oversee the tracking of the budget adjustments and reserve levels. The Committee would bring any flags raised to the City Council. He indicated that the Committee put together a recommendation in the memo before the Council.

Council/Agency Member Tate stated that the Committee looked at three ways of bringing the deficit down to zero: 1) instruct the City Manager to bring the budget down to zero and present a budget that contained no deficit; 2) staff to be directed to manage the budget as it goes along throughout the year, making sure that the budget is brought down to zero; or 3) as the year goes along, staff to do everything that it can to bring the budget down to zero. However, it was felt that opportunities many not come along that would allow staff to balance the budget. The Committee changed its report slightly this morning to state that the Committee would like staff to manage the budget down to zero but understood that it may not to be possible because it would result in drastic actions being taken.

Council/Agency Member Sellers noted that staff was able to reduce the Fiscal Year 2001-02 budget by 5% and that he was positive that staff would do everything that it could to find reductions. He wanted to make sure that the City Council is not in a position where it is telling staff to try to do more with less. He inquired whether the Committee was recommending that staff find possible reductions but not in a way that would limit, alter, or diminish the scope of work set by the Council?

Mayor Pro Tempore/Agency Member Carr felt that it was important that within the language of the recommendation that the reductions not be absolutely mandatory, instructing the City Manager and staff to find ways to make up the \$262,000 deficit, but that it not be absolutely mandatory.

Mayor/Chairman Kennedy thanked the Committee for their work. He felt that the Committee did an excellent job in laying out alternatives and putting together recommendations. He thanked City Treasurer Mike Roorda for his contributions as a member of the Committee.

Chairperson/Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Mayor/Chairman Kennedy noted that this is an \$86,662,958 budget and is \$15.9 million less than last year's overall budget. The budget includes 37 specific projects and programs over and above the ongoing programs (e.g., police/fire services, street maintenance repair, planning, building, recreation, flood protection, etc.). He stated that this is an aggressive budget and that the City has a lot of activity taking place. He indicated that the City may have to use some of the reserves set aside for economic uncertainty. He felt that it was appropriate to rely on these funds now that the City is faced with a drop in revenues (e.g., Transient Occupancy Tax) that have impacted the General Fund revenues. He stated that he was supportive of the budget, as presented, and that he was pleased to see the recommendations that the Committee put together.

Council Member/Vice-chairwoman Chang noted that the Committee's recommendation is to direct the City Manager and staff to manage the budget in a manner that will allow the City to achieve a savings of \$262,000. She stated that it was mentioned that this recommendation was not mandatory and inquired as to its meaning.

Council/Agency Member Tate stated that the Committee reviewed three alternatives in handling the budget deficit. One alternative requested that the City Manager balance the budget in advance. This alternative was ruled out. The City Council could tell the City Manager to manage the budget to zero as the year goes along. The City Manager could get to the eleventh month with opportunities for savings presented. The City Manager would then have to make the decision on where to cut. He noted that Council/Agency Member Sellers did not want to have this kind of control over staff to rule on where cuts are to come from. He said that cuts may not be able to be made without making cuts in services that the City cannot afford to make. The Committee felt that in this case, it would be acceptable to go into the economic reserve so that the Council is not insisting that the budget be brought down to zero, but making it a high goal to bring the budget down to zero. The Committee felt that the City will see the deficit reduced and that the Committee will be tracking the budget closely as the year moves along. The Committee will work with the City Manager and staff on achieving a zero budget, but not mandating it.

Council Member/Vice-chairwoman Chang expressed concern with the budget. She indicated that she is grateful that the Committee took her concerns seriously. She was sure that the City Manager would be able to manage the budget to the level that the Council believes that he can. She stated that she did not like the deficit included in the budget. She noted that the General Fund grew 65% from \$8.5 million to \$16 million in the last five years. The Committee addressed the issue of mid year adjustments that occurred last year and the State's budget. She stated that she has a different view point about the reserves. It has been stated that the reserves should be used for rainy days. She felt that it is only a cloudy day at this time and that on a cloudy day, the City should start with a balanced budget. If it is a rainy day, she would agree to use the reserves. She expressed concern with a \$300,000 deficient and a \$2.5 million exposure. This is the reason she is insistent on getting to a balanced budget. However, she stated that she would support the recommendation as she has full confidence in the Council Members, the Committee, the City Manager and the accounting staff.

Council/Agency Member Sellers stated his appreciation of the work and recommendation forwarded

by the Committee. He extended his appreciation to Council Member/Vice-chairwoman Chang for raising a lot of the issues early on. He felt that concerns raised by the Council/Agency as well as those raised by Council Member/Vice-chairwoman Chang were dealt with by the Committee in a prudent way. He felt that this is a good budget and that the City is at a point where it has a lot going on and that the City will be able to get the work done. He appreciated the fact that staff is willing to do what it can to reduce the budget. However, he felt that it was important that the Council make sure that staff has the resources to accomplish identified goals.

Mayor Pro Tempore/Agency Member Carr stated that the Committee spent a significant amount of time on the budget. He felt that this budget, combined with the recommendation from the Committee, makes the management of the budget a partnership between the Council and staff. He said that the Council/Agency will be asking the City Manager/Executive Director and staff to manage things in a certain way but that the Committee will oversee the tracking of the budget. He felt that there would be difficult decisions to make and that this is the reason Council members were elected. He said that the Committee has put together a recommendation about a good budget, one that would help the City achieve its goals and meet the needs of the community in ways that the City can manage the budget to make sure that it is fiscally prudent in these difficult times.

Mayor/Chairman Kennedy indicated that the Committee was created in 1991 or 1992 to work closely with staff to aggressively track a budget and to keep the Council apprized, on a frequent basis, as to what is going on and offer suggestions, using the combined talents and resources of both the Council Members and staff. He was pleased that the Committee has presented a recommendation to the Council as it has accomplished the exact reason why this Committee was put in place for.

City Council

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** Resolution No. 5589, Adopting the Fiscal Year 2002/2003 Annual City Budget and Adopting the Appropriations Limit for Fiscal Year 2002/2003.*

Redevelopment Agency

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Redevelopment Agency unanimously (5-0) **Approved** Resolution No. MHRA 241, of the Redevelopment Agency of the City of Morgan Hill Adopting the Fiscal Year 2002/2003 Annual Agency Budget.*

City Council

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** the Capital Improvement Plan.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council unanimously (5-0) **Adopted** the recommended actions of the Finance and Audit Committee.*

City Council Action

12. ADJUSTMENTS TO DEVELOPMENT IMPACT FEES

City Manager Tewes stated that impact fees are not pro growth or anti growth, slow growth nor has anything to do with the pace of growth. When established at an appropriate level, development impact fees ensure that whatever growth occurs, it will not increase the burden on the existing community for public facilities. He indicated that all members of the General Plan Committee understood that following the adoption of the general plan, the City would be going through a comprehensive study of impact fees. He stated that the Council heard testimony during the general plan hearings from members of the community urging the Council to get underway with the impact fee study. Over the past two years, the City has negotiated development agreements with several major commercial developers. Issues included discussions about the potential for increases in impact fees. He said that the Measure P subcommittee is anticipating impact fees changing and will be recommending changes to the criteria to address the effect of the interactions between impact fees and Measure P commitments. During the Redevelopment Agency workshops on how to allocate RDA funds, the Agency/Council made choices based on whether the cost of growth would be allocated among new growth and the existing community. He stated that staff recognizes that impact fees have an economic effect on the cost of development. Unlike other factors that impact the cost of development, impact fees are not set by the market system but are the result of a regulatory and political process. He indicated that fees must be established in accordance with law and that AB1600 sets forth the standards that must be used in establishing fees. The Council must make policy choices about how the cost of growth is to be allocated. He recommended that the Council hear staff's presentation, noting that staff is not asking the Council to make a final policy decisions this evening. Staff further recommends that the Council continue the public hearing to July 17, 2002 at which time, staff hopes that the Council will be prepared to make decisions. He said that it would be helpful, following the presentation and public hearing, if the Council would give staff direction on any issues it would like researched or analyzed. Staff would return on July 17 with the additional information.

Finance Director Dilles presented a power point presentation on development impact fees and the reason they are necessary. He stated that impact fees total \$20,846 for a single family home and \$16,997 for multi-family. He said that proposed impact fees would go up almost 54% for single family homes. He stated that the price of a home in Morgan Hill has gone up from \$280,000 in 1995 to \$533,000 for the first four months of this calendar year. During this period, impact fees have gone up from \$12,265 in 1995 to a proposed \$28,046 (70% increase). He indicated that impact fees would not go up as much as housing values have. He presented comparison impact fees from other cities. He indicated that staff met with developers on several occasions and that these meetings gave staff the opportunity to talk about issues and concerns that developers had. He said that developers were provided with the impact fee report in early May. Staff received comments in the area of calculation issues (e.g., have impact fees been calculated correctly, including credit from other revenue sources, administration and implementation, timing policies of the impact fees.) Also, discussed was use of the park fees based on population and the formula used for the community and recreation center, noting that these two fees are new ones calculated in the consultant's report. Staff is not recommending that these two fees be adopted at this time as it was found that most of the projects are funded by redevelopment. It is staff's belief that more facts need to be gathered. Therefore, staff recommends that it return to the City Council within a year with more information about the need and dollar costs for the sports complex/sports field.

Mr. Dilles indicated that concerns were raised by developers regarding open space and Measure P fees. Staff looked at this issue closely and that it was found that the City does not need to implement an open space fee at this time as the City is generating sufficient funds from the Measure P program for the same purpose. He said that Library fees have been placed on hold based on the fact that the City has applied for Proposition 14 funding and that staff is waiting to hear back on the application. The results of the application would be a major factor on what the City would do with library impact fees. Questions were raised by developers about projects already in the pipeline and moving forward. Staff is recommending that the City grandfather all currently allotted Measure P projects by allowing fee prepayment prior to the implementation date. Developers would be able to pay existing fees versus the increased fees if paid prior to the implementation date of January 6, 2003.

Mr. Dilles stated that if a commercial/industrial developer submits a complete set of building plans for plan check and prepay impact fees prior to January 6, 2003, staff would allow developers to pay existing fees. Staff is not recommending or proposing changes to the existing park fee credit system program. He noted that Measure P contributions are not AB1600 fees as they are voluntary contributions and earn points for development as they go through the Measure P process. He stated that increased impact fees are being recommended as the fees have not changed in the past seven years and costs have increased substantially over this time period. The need for public facilities has increased significantly. Therefore, new development is not paying its fair share of needed infrastructure. By updating the fees at this time, the City establishes some certainty. He addressed alternatives to not increasing impact fees. He stated that staff is recommending that the public hearing be continued to July 17, 2002, at which time, staff will be asking that the Council to adopt all proposed impact fees, except open space and recreation facilities, no change to the library fees, delay implementation of new fees until January 6, 2003, and direct staff to continue evaluating fees for the library, community and recreation centers and open space fees. He informed the City Council that staff would be revising the ordinance and resolution prior to the July 10, 2002 meeting, noting that the ordinance would be introduced at the Council's July 10 meeting. He informed the Council that the consultant, Joe Hogan from Maximus, was present to answer questions that the Council may have.

Mayor Kennedy inquired what start date in collecting impact fees was assumed in calculating the fees?

Finance Director Dilles responded that the cost of the project is not a function of timing. Timing becomes important because you have existing customers, existing development and future development. He said that it was his belief that the line was drawn at the beginning of this fiscal year.

Joe Hogan, Maximus, stated that it was his recollection that development was reckoned as of the beginning of the calendar year not knowing when impact fees would be adopted/effective. As the study progressed, a time line had to be assumed, drawing a line between existing and future development. It was his belief that a January 2002 date was selected.

Mayor Kennedy stated that should the Council elect to phase in impact fees, it would be assumed that there would be a net loss and that the City would not be able to collect enough fees to pay for the identified projects. He said that it was important to know the assumptions that the impact fees

were based upon.

City Manager Tewes indicated that the amount of loss revenue would be a function of whatever the phasing schedule is and how much development would have occurred. If little development occurs, the City would not have collected the fees at either higher or lower rates. He clarified that the City would not be able to make up the loss at a later date because it would be unlawful to charge future development for impacts that should have been paid by prior development.

Mr. Hogan addressed the question about the rate of development. He stated that he avoided making assumptions about the timing of development in calculating the fees. He looked at all development that would be possible within the urban growth boundary given the General Plan and, in most cases, looking at all facilities needed to serve this amount of development. He indicated that fees were calculated in current dollars with a recommendation that they be escalated over time in order to maintain a correct relationship with inflation. He stated that timing of development only enters into the equation based on how much development has occurred before the fees would take affect.

Mayor Kennedy noted that City Manager Tewes pointed out that the actual development of housing, commercial and industrial projects that bring in the fees would have to assume some sort of time schedule and number of projects to determine what the impact fees are going to be.

Mr. Hogan clarified that it was assumed that there is a certain amount of development potential left in the City in looking at the General Plan. He worked with the Planning Division to determine how many dwelling units could be built in the future within the urban growth boundary, including commercial/industrial development. He allocated the cost of all public projects to all development, regardless of when it occurs. This was calculated in current dollars. Therefore, the calculation of fees does not depend on when development occurs. He said that this relationship is self correcting as it does not change. It was his belief that the front end phase-in would affect the City's revenue projections.

Mayor Pro Tempore Carr inquired if it is being stated that there is an escalator based on inflation that is added to impact fees and whether the fees would be adequate for the life of the General Plan?

Mr. Dilles responded in the affirmative based on what staff knows at this time. However, staff would review this every five years and tweak, as deemed necessary.

City Manager Tewes noted that one of the recommendations coming out of the report is that the impact fees be updated more periodically than once every seven years (e.g., every five years). Regarding AB1600 and its regulatory requirements, in theory, if the engineering news record index exactly equals the increases in cost to be experienced over the succeeding years, the fees would be adequate for the general plan build out. However, past experience has shown that the engineering news record index is only a close approximation of the actual increase in cost.

Mayor Kennedy opened public hearing.

Jennifer M. Cloonan, Associate Director of the Home Builders Association of Northern California, indicated that the Home Builders Association and the Morgan Hill Chamber of Commerce are

jointly requesting a continuance on the impact fee hearing. She said that the membership is in the process of putting together a list of priorities that address the following: 1) What are the immediate needs of the Morgan Hill community? 2) What can be held off until the economy improves? 3) How can these increases be phased over time? Through a dialogue of these concerns, she stated that it is intended to put together a joint recommendation for Council consideration on the proposed fee increases.

Sunday Minnich informed the Council that the Morgan Hill Chamber of Commerce's Economic Development Committee and the Home Builders Association held a joint meeting with commercial, industrial, and housing developers to discuss the proposed changes to development impact fees. It was felt that the proposed changes are for the betterment of Morgan Hill. She felt that the City has wonderful development partners that want to pay their fair share and want to see the improvements completed. The question is "what is their fair share." It was felt that this is very unfortunate timing with the downturn in the economy. To implement the fees at one time would stifle economic development for business attraction and new business development. Also, feared is negative publicity that Morgan Hill is not opened for business. She indicated that a subcommittee was put together to talk about the items identified by Ms. Cloonan. The subcommittee is proposing to bring a joint recommendation to the City Council on July 17. She therefore supported a continuance.

Bruce Myers, Pacific Union Homes, thanked staff for the opportunity to participate in the impact fee update process as this is not an opportunity afforded by other communities that he deals with. He said that Pacific Union is currently building a project on East Dunne Avenue, purchasing the property on January 2001. In his case, the chart shown regarding comparison of prices in 1995 to date is a little misleading as he does not have this value because it has been absorbed in the price paid for the land. He indicated that he has full Measure P allocation for his project and that they extend through 2004. Normally, you anticipate increase in fees over time, noting that Union Homes is willing to pay its fair share of fees as building occurs. He said that he was anticipating a 2-4% increase with the cost of living or inflation. He said that a 54% increase is a bigger impact to his development, especially in a market like this where you cannot pass the cost onto potential homebuyers. He said that normally, fees are fixed at the time you pull a permit. As he will be building into 2004, he would not be pulling all building permits by the end of 2002. He appreciates the recommendation of being able to prepay fees as it will help. However, he appeared before the City Council a couple of months requesting an extension to his project. It may be possible that he would be doing so again, depending on sales and how the project progresses. He requested that should the Council approve the prepayment of fees that they be fixed at that time.

Bob Dwyer, commercial developer, acknowledged that it is a tough market at this time. He noted that industrial parks pay assessment bonds. He said that commercial and industrial developers are not opposed to pay their fair share. He requested that impact fees be phased in over a period of time. He said that in the commercial and industrial arena, they have had development fee impacts, especially traffic impact fees since 1996. He indicated that he has a neighbor who is occupying space who has never paid fees and is still in a shell condition. He recommended that the City collect back fees from those who have not paid fees.

Gaye Quinn, Venture Corporation, owners/developer of Morgan Hill Ranch, indicated that she is also a member of the Chamber of Commerce's Economic Development Committee. She was

supportive of their request for a continuation to look at additional alternatives. She said that her firm believes that this is a critical issue at a very critical time. It is felt that the increase in fees being proposed will not only effect new buildings but would also affect vacant inventory. She said that the negotiations that Venture Corporation is undergoing are tough as there are very few tenants for the buildings that exist. She said that the timing of increasing impact fees could not have been worse for commercial and industrial development. The experts expect the economic downtown to last at least 3-5 years. She said that commercial/industrial developers have lost their competitive advantage that use to be enjoyed in Morgan Hill based on an overflow from San Jose and Silicon Valley. Morgan Hill had prices that could compete easily with the prices being charged to the north. Given the glut of vacant space that currently exists, Morgan Hill no longer has the advantage. She is finding it difficult to market development. The proposed fees would kill some of the deals that she is working on. Venture Corporation is anxious to work with the Chamber of Commerce and staff to come up with alternatives that could phase the programs and/or provide alternatives in looking at the methodology and cushioning some of the assumptions that Mayor Kennedy mentioned earlier.

Carolyn Hipp, Warmington Homes, requested that the Council consider phasing or increasing fees over time. As a developer, it would provide an opportunity to balance an economic increase, working with the fee increase without having to compromise the product of the homes and without having to increase the prices of the homes dramatically to offset the fees. Regarding the ability to pay the building permit fees in advance of the implementation of the fees in January 2003, she indicated that her project is allocated through 2004. Therefore, she would not be eligible to pull permits for the 2004 permits by January 6, 2003. Her development agreement would preclude this and indicated that she would not have a final map approved by then. She noted that the current proposed park fee is doubling and would quadruple the parks fees for those developers who have made Measure P commitments to pay double in lieu fees to get more points in the scoring criteria. She wanted assurance that in the park fee credit program and the reimbursement program that she is currently eligible for that it contains the land valuation at the \$400,000 discussed this evening (include land and improvement values). She is uncomfortable in terms of the Measure P contributions that are specific to the CIP program and the storm drain fund. The fees equate to approximately \$1,000 per dwelling unit for both the CIP and storm drain fund. They would be applied and applicable to a discretionary capital fund. Therefore, they do not fall within the AB1600 and would not be considered a part of the additional revenue as it relates to the need to increase impact fees. She requested that the Council look at the discretionary capital fund and see if there is any amount that could apply from the Measure P contribution as an offset to the storm drain fee increase.

Dick Oliver, Dividend Homes, speaking on behalf of himself and not other developers at this time, noted that building permit fees are also being increased substantially. He suggested that staff come back and discuss the feasibility of staging fee increases over a three-year period. He appreciates the opportunity to prepay before January 2003. He said that approximately 40% of the fees are paid at time of filing a final map and that approximately 60% are paid at occupancy. He inquired whether 100% will be required or the 40%? This amount needs to be known so that the City will know the impact and the developers can comment appropriately. In his letter to the Council at the last work session, he requested that in the credits available in the park fees, if a developer dedicates land to the City for a park, that 100% of the cost be refundable up to the amount of the park fee. In his particular case and that of the Borello family, he has a general plan designation of a four-acre

neighborhood park by Peet and Cochrane. The number of units to be generated will absorb approximately \$400,000 and that he would be dedicating \$1.6 million worth of land to the City. He loses the value of the difference that would equal \$1.2 million, equating to 300 homes that he gets no credit for. He said that his project would offset other fees that others do not pay. He requested that the excess over and above the amount that he would pay be applicable to any other project that he or the Borello family have that are located within one quarter mile from the park.

Rocke Garcia, Glenrock Builders/Shea Homes, thanked staff for acknowledging the direct connection between Measure P and the fee increases. He appreciated the comments expressed by Ms. Hipp and Mr. Oliver relating to the park fees as this is the greatest number in the proposed fee increases. He stated that developers are willing to pay their fair share. However, when you look at the overall picture of Measure P, especially if you pay the double park fees and, in his case, exceeding the Quimby Act by more than 50%, some consideration should be given on how you determine this particular fee for Measure P projects.

No further comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the Council unanimously (5-0) **Continued** the public hearing to July 17, 2002.*

City Manager Tewes clarified a few of the issues raised this evening. He said that the Council would be receiving a recommendation of phasing-in to address the issue of stranded costs as some individuals have already made deals and therefore cannot push costs forward or backwards. He stated that it is staff's proposal to allow prepayment of fees to address this issue. He said that phasing in is an alternative approach to the same issue and is not a supplement. Staff was suggesting that the City would allow prepayment of fees even though a project had not yet reached the building permit or certificate of occupancy stage to lock in existing rates, if desired. Staff would be happy to return with more clarification about the policies as requested by Mr. Oliver on July 17. With regards to what happens to dedications, staff would return on July 17 with a recommendation as previously discussed with Mr. Oliver.

Mayor Kennedy stated that there was an issue that came up with a project several years ago regarding the timing of the payment of impact fees. He recollected that when Council Member Cook was on the Council, she advocated payment of fees at the time of the issuance of building permits.

Mr. Tewes indicated that the law does not permit the City to require fees to be paid earlier than the certificate of occupancy for residential projects.

Director of Public Works Ashcraft clarified that in earlier days, the City would collect commercial and industrial impact fees at time of occupancy similar to that of residential fees based on law. Staff later decided that all impact fees should be collected at time of issuance of occupancy permits. This is not in accordance with City code. City code requires collection of impact fees at time of building permit issuance unless there is another law that states that the City should do something different, noting that there is for residential. When Council Member Cook raised the issue, the City began to collect all impact fees for commercial and industrial at time of building permit issuance. City law stipulates that all fees are to be paid at time of building permit issuance. If a commercial and

industrial buildings are built and the occupant is known with the installation of all improvements, then the City collects all fees when the permit is issued. There are some buildings that only have a shell and therefore, few of the fees such as wastewater and traffic that cannot be calculated until the tenant is known.

Council Member Tate felt that the City waited seven years before increasing impact fees. Now, it is being recommended that the fees not be raised again for another five years. He said that phasing in of fees is one concept of phasing but felt that there was a more basic issue of phasing. He recommended that fees be increased every year so that there is a continuation in terms of fee increases along with the cost of living. This would result in dollar cost averaging and would make practical sense to look at increasing fees on a regular basis.

City Manager Tewes said that one of the things that staff is suggesting is to provide certainty to the development process. If the fees are changed every year significantly, staff would not be providing certainty. He said that there are deals being worked out by land owners and home builders as well as commercial developers and tenants. They do not always come in together in nice one year increments. Therefore, developers need certainty, over a development cycle, to predict them. He stated that the City does have built in adjustments. He said that annual adjustments would be conducted for an index of construction costs. Staff is not proposing to go through a study similar to this one each year to analyze costs.

Council Member Tate recommended that the City consider looking at a continuous phased basis, looking either backwards or forward.

Mayor Kennedy inquired if it would be possible to perform a cash flow analysis of when development occurs, when the project that is proceeding, and when project funds are needed for city facilities?

Mr. Dilles stated that staff can estimate the cash flow projected to come in each year but that he did not believe that this is what will drive how the fees are set. He clarified that fees are set based upon what it costs to build the projects and how much of this benefits the new growth, looking at the demand factor to come up with a unit cost. He stated that the process does not look at when you will build but what it will cost to build. He said that AB1600 drives this.

City Manager Tewes said that cash flow is absolutely critical to the City Council's budgetary decisions which is a separate matter from adopting the fees. However, the City Council does make budgetary decisions about which capital projects to commence. If the City is going to get advise about which projects not to begin, the City Council would need to go back to the General Plan. He stated that the impact fee program is a comprehensive program and that absent a comprehensive fee program, it would require the City look at each and every individual project and in some instances, decide that they cannot proceed until a major facility is constructed. Projects cannot proceed unless that individual development pays the cost of the major facility in the hope of reimbursement at a later date. By adopting a comprehensive fee program, the impacts of any individual project are met by simply paying the fee. It is the Council's decision of which priority projects are to proceed.

Mayor Pro Tempore Carr referred to the comparison table among municipalities. He noted that the

table showed clearly that in dollar figures, the City may not have the highest fees. However, Morgan Hill was the largest in a number of categories in which fees were charged. He requested that staff provide information as to how other municipalities pay for their improvements such as other forms of tax or assessments. He said that although some municipalities may have lower impact fees, they may have other means of taxes to help pay for the same impacts.

Mr. Dilles agreed to research and provide Council with this information.

City Manager Tewes noted that some cities have voter approved general obligation bond measures for police and fire facilities.

Mayor Pro Tempore Carr noted the prepayment proposal that staff has come up with gives developers a six-month time line to prepay. He did not know if this was enough time or should the City give a longer prepayment time for projects that currently have Measure P allotments and whether the City should give existing commercial and industrial buildings additional time to prepay? He felt that this information would be helpful. He felt that the knowledge of loss of dollars would also be important to know.

Mr. Dilles said that staff was trying to give some time to allow prepayment, realizing that the further the prepayment is pushed back, the fewer dollars come in. Long term, there would be less money to build the facilities for that portion that benefits growth.

Mayor Pro Tempore Carr noted that a question was raised about a clarification on prepayment. It was indicated that some fees are paid at final map and some are paid at occupancy. When talking about prepayment, is staff talking about all of the fees or just the fees that are due at final map? He noted that the staff report indicates that if time extensions are subsequently granted to projects then additional impact fees would be due. He noted that almost every project comes before the Planning Commission and City Council for extensions because it seems to be difficult to move forward with a project in the first year. He recommended that fixing of fees be set for prepayment purposes instead of the increase.

Mr. Dilles stated that with regards to residential, all fees would be paid at the same time. With commercial and industrial development, you may not necessarily know who the ultimate tenant will be. Therefore, you would not know what the traffic and sewer fees would be as they would be difficult to calculate without knowing whom the tenant will be. Mr. Dilles stated that staff was not proposing any exceptions.

Council Member Tate expressed concern about the shell versus the final tenant improvements and the fact that traffic and sewer impact fees are not paid until the final tenant improvements are completed. It was indicated that the City of Morgan Hill is in a battle with other communities for attracting companies to the community. He felt that the City is impairing this without certainty because fees are unknown and deals are under negotiations. He recommended that the fees be fixed for the current shells as they are now and exempt them in order to allow developers to compete in attracting new businesses to the community. He felt that the highest economic priority should be to fill the buildings that are sitting empty. He recommended that this be a concentrated effort. He expressed concern with the recreation fee that is not being recommended at this time. He said that

the City is in a situation where it has fully funded an indoor recreation facility and not funded an outdoor recreation facility; a concern to him. If it is the intent to fund the outdoor recreation facility, then he was not sure why the City is holding off on collecting these fees. He felt that as an alternative, the indoor facility should not be fully funded, spreading out funds. However, he noted that the Council has agreed to fully fund the recreation center. He was hoping that the Council would be putting in place, sooner rather than later, where the City would be betting the funding for the outdoor recreation facility which he considers a high priority.

Council Member Chang stated that it was her understanding that a recommendation would be returning to the City Council on July 17, 2002. If there is to be a phasing proposal, she requested that a comparison of the monies be provided (the impacts of implementing it now or implementing it on January 6, 2003). Mayor Kennedy concurred with this request for information.

Council/Agency Member Sellers excused himself from the remainder of the meeting.

13. ADJUSTMENTS TO USER FEES, SERVICE CHARGES, AND MISCELLANEOUS UTILITIES FEES

Finance Director Dilles presented the staff report. He stated that staff is proposing, in the area of planning fees and engineering fees, that these increase approximately 20% versus the larger percentage calculated for full cost recovery at this time. Staff is also proposing that the building fees be tied to the 1997 Uniform Building Code as they are currently tied to the 1991 Uniform Building Code plus 8%. Staff is partly proposing that the City only implement approximately 20% for Planning and Engineering at this time as the City is undergoing a development audit. The City will have more information following the audit to tell the Council if it can be more efficient in how it provides services or somehow do things differently. Staff believes that this is an important component to consider when it comes back to the Council with recommendations for possible further adjustments at a later date. He recommended that the fees be implemented September 17, 2002 which would allow for a 60-day waiting period in order to implement development fees. All applicants who file complete applications by September 16 would be allowed to pay existing fees at building permit issuance. This would allow the City to recover its fees on an ongoing basis on a full cost recovery except for planning and engineering. If the limited fee increases proposed for planning, building and engineering are not adopted, it would be necessary for staff to recommend that the Council adjust the community development budgets that are contained in the recently adopted budget. Staff recommends that the Council open the public hearing and continue the public hearing to July 17, 2002. Staff would return to the City Council with an ordinance to be introduced on July 10, to get it into the process following tonight's comments.

Council Member Chang inquired whether the Recreation Facility fees would be brought back on July 17? Mr. Dilles responded that this would be brought back on July 17 as part of the public hearing. He noted that under agenda item 14, it does not set the fees but addresses the methodology of the procedures for collecting fees and classifying different types of users of the park facilities.

City Attorney Leichter indicated that staff needs to look at whether the City needs to amend its recreation fee ordinance in order to encompass the new fees, thus, the reason to bring proposed fees back to the Council on July 17.

Mayor Kennedy noted that staff has four recommended actions. The first action is to continue the hearing to July 17, noting that the third recommended action is to introduce the ordinance.

Mr. Dilles informed the Council that staff is not recommending that the ordinance be introduced this evening.

City Attorney Leichter advised the City Council that staff would prefer to bring back the ordinance and the resolution to the Council. Depending on the Council's comments this evening, staff may need to amend one or both of these documents. She indicated that three ordinances would be introduced on July 10m and adopted on July 17.

City Manager Tewes informed the Council that staff would return with the ordinances and resolutions and that staff is not asking the Council to take definitive actions this evening in terms of setting fees.

Mayor Kennedy opened the public hearing.

Dick Oliver requested that the implementation be made November 1 instead of September 1 as it is difficult for developers to submit plans by the September 1 date. It was his hope that developers would be allowed to submit complete applications, noting that there are some applications that cannot be filed unless a final map is recorded. He stated that his application has been delayed by eight months by the EIR processing. As long as he can submit the applications even though the final map is not recorded would be appreciated so that he can pay the fees. He stated that he has three projects that he has been working on. He noted that he has four final maps that he has processed for the Mission Ranch project. By the time the project is completed, he would have between 12 and 14 final maps. With regards to the Coyote Ranch project, he has six final maps to date and would have 10 to 12 final maps by the time the project is completed. By the time these two projects are completed, he would have had to file and compete in 15 Measure P applications. He felt that it is misapplying staff time, it is inefficient and is costly to him. He felt that there has to be a way to figure out a better way to process Measure P applications, while still accomplishing Measure P objectives to be more efficient with staff time and fees that developers are paying.

Mayor Kennedy requested that staff take a look at Mr. Oliver's concern.

City Manager Tewes noted that the Council will be appointing a Measure P update committee and that the committee would be addressing issues of concern.

Mayor Kennedy stated that it is important that Mr. Oliver's concern be a part of the Measure P update process.

Bruce Myers stated that 60-days would mean the submittal of 61 applications on the remainder of his project. He requested clarification from staff as to how long he has from the application date to pull permits. He stated that he could not take advantage of the grandfathering provisions as it would be unlikely that he would be able to submit applications by September 1. He requested that the date be more in line with the way that the Measure P allocations are set up and the timeline for constructing the project.

No further comments were offered.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the Council, on a 4-0 vote with Council Member Sellers absent, **Continued** the public hearing to July 17, 2002.*

Mayor Pro Tempore Carr inquired as to the reason the 60-days was selected. He requested further clarification of the date in the future.

Mr. Dilles stated that 60-days is the minimum time being recommended to implement development fees. The driving force is covering the City's cost. He stated that the consultant has calculated that the City is spending much more than it is recovering in fees. The longer the City waits, the faster the Community Development reserves get used up. The 60-days was an attempt to increase the fees as quickly as possible so that the City can stay above water. He said that 20% was calculated to stay enough ahead of the game. The only thing that is driving the 60-days is the cash flow and the ability to finance the proposed budget. In response to Mayor Kennedy's question, he indicated that there are reserves in the Community Development fund. However, the budget anticipates \$360,000 at the end of next fiscal year, assuming the increases proposed. He noted that this is not a large number for the Community Development fund.

Council Member Chang inquired how much would 30-days cost the City? City Manager Tewes responded that this is an important enough question that staff would return with a response.

14. CITY RECREATION FACILITY RESERVATION PROCEDURES AND USER FEES

Recreation Manager Spier presented the staff report, indicating that staff is proposing a tiered fee system. She indicated that the Parks & Recreation Commission has several recommendations: 1) the processing fee for \$17 is implemented but not to charge the picnic rental fee, noting that the City is subsidizing by providing services free of charge. The Commission felt that the \$17 fee would be comparable to what other communities are doing at this time. 2) Look at an 80% factor when the City assesses whether it is a community organization serving the youth. She noted that the Council decided to go with the 60% that is reflected in the new proposal. 3) Should the Council move forward with the fee system that fees be collected and placed into a maintenance effort, a fund specifically to be used to maintain these types of amenities. She provided the City Council with a table of comparison fees for seven neighboring cities and one school district.

Council Member Tate requested that the actual fees paid by categories for comparison cities be provided.

Council Member Chang inquired as to the fees being proposed?

Finance Director Dilles stated that based on the numbers that Ms. Spier identified of 500 reservations at \$17 each would equate to \$8,500. What is being seen by the Council is just under \$15,000 for use of the sports fields.

Ms. Spier stated that approximately \$19,000 can be anticipated in revenues for Category A, non profit youth groups within the City limits. These revenues do not reflect special events processing, nor picnics, tennis court reservations or other uses.

Council Member Chang stated that for \$20,000, it appears to be a lot of trouble but that if \$500,000 was to be generated, she would consider the recommendation.

Ms. Spier said that it would take a lot more in the way of assumptions to calculate the revenues to be generated and that staff could return with this information, noting that she only looked at one category. She indicated that Orchard Valley Youth Soccer has calculated the revenues being proposed by the City would increase \$5 for each youth participant per year.

Mayor Kennedy inquired as to the basis for establishing the fees? He also inquired whether staff calculated all costs for services to be provided?

Ms. Spier responded that fees are based on comparables to what other communities are charging. Staff felt that this would be a more user friendly way to implement fees. She stated that staff is impacted by providing the service through the recreation division of reserving specific fields and negotiating between users. She stated that there is a cost associated with lights. Once staff looked at the hourly rate of \$17/hour for processing, staff knew that it would become expensive given the fact that the City is not charging fees at this time. Staff took an average of what the other eight communities charge and took the low end of the rates. In response to Mayor Kennedy's question, Ms. Spier informed the City Council that staff did not determine the City's actual costs for the services (e.g., utilities, maintenance, lighting, staff time, etc.).

City Manager Tewes informed the Council that the proposed fees are based on use of fields and not full cost recovery.

Mayor Kennedy stated that the actual cost for use of city facilities is not apparent and that the actual cost is much greater than is being reflected in fees, noting that the fees being proposed are based on comparables to those of other communities. He stated that he is having a hard time comparing the fees because staff's fees are set up in A, B, C categories. He recommended that Morgan Hill's fees be placed side by side to the other communities for comparison.

Mr. Dilles clarified that the processing fee is based on cost, therefore, the \$17 is a cost related fee and is different from other fees being presented.

Ms. Spier indicated that the School District has agreed to charge the same fee that the City will be charging.

Mayor Pro Tempore Carr stated some sports organizations have agreements with the School District that are outside of any fee structure. He did not know how the user fee structure would impact these agreements as there are maintenance agreements that have been agreed to by some groups.

Council Member Chang stated that she is not motivated to approve a field reservation fee structure that would only generate approximately \$20,000 but would consider the information to be presented.

Mayor Kennedy opened the floor to public comment.

Patrick Kelly, representing the Pride/Spirit of Morgan Hill, indicated that the School District intends to impose a fee. He stated that there is a specific statute that prohibits schools from imposing a fee for use of the fields by youth sports unless it is over and above the actual cost that would be incurred by the School District. He stated that every man, women and child in the city have paid for the parks and therefore are entitled to use them. He noted that seniors are not charged for the use of the senior center nor the youth who use the skateboard park, the homeowners who call a policeman for a potential burglary, persons who may be having a heart attack when they call the fire department, families who picnic in the parks, or individuals who play a pickup game of sports, nor the use of the library. He questioned why the youth sport teams are being singled out. He felt that youth groups are being charged because they are easy targets. Should the City impose the fees, the youth group organizations would have no choice but to pay the fees. He said that additional costs are not being incurred by the City for the use of the parks by the sports teams during the day as the City would still need to mow, water and fertilize the lawns. He noted that tournaments generate thousands of dollars for the city. He felt that youth organizations need to be supported and charging for use of fields is inappropriate.

Christine Giusianen, President, Spirit of Morgan Hill, stated her opposition to the proposed fee structure for recreation. She felt that fees for use of the fields would prohibit a lot of players from participating in youth organized sports, noting that some youths are sponsored who cannot afford to participate. She requested that the City rethink charging fees as this would add an additional \$13 per child to participate in sports programs. She did not know how the Council could make a decision as it is connected to agenda item 13, noting that it was continued to July 17, 2002.

David McPherson, President of Silicon Valley Association, supported a fee for a different perspective as he knows how important it is for the City to be fiscally sound and be able to cover costs. He supported an administrative fee to cover this aspect. However, his issue is regarding the fee for use of the fields. He stated that some parks are not safe to play on and that youth sport organizations invest funds to improve fields. He stated that his organization is already paying to maintain the fields and that it would add \$55 per child to pay for the use of the fields or to look at alternatives such as using fields in other cities. As far as revenues are concerned, he performed an analysis of 624 families that come into the City from out of town and spend an average of \$300 for a weekend tournament, equating to \$187,000 in discretionary spending to businesses in the community (\$1,800 in local sales tax). He informed the City Council that his organization has youths on scholarships. He felt that an administrative service fee to offset the cost for processing is reasonable for community programs. However, to request youth groups to pay an hourly rate would be difficult to do.

Sean Baldwin, Sports Coordinator for Mt. Madonna YMCA, stated that the YMCA is not opposed to paying a fee as it is understandable that there are processing fees involved. However, he felt that an hourly fee is more of a profit making scheme. He indicated that the City would have to maintain the fields no matter whether they are used or not. He stated that the YMCA would like to reserve fields and should be charged a fee to reserve the fields. He stated that the YMCA is not making a profit nor are they in existence to make a profit. He noted that the YMCA gives scholarships and free seasons and that additional fees would impact these services. He informed the Council that the

YMCA was not advised of this proposal until approximately a week ago. He did not believe others were contacted regarding this proposal and therefore recommended that action not be taken this evening.

Mayor Kennedy suggested that this item be continued to July 17 as there is a correlation with the other items on this agenda that were continued to July 17. He noted that information has been requested on comparisons and costs.

Council Member Tate felt that a fee should be charged for processing an application and the use of lights. He supported charging direct costs to the City but not the indirect costs. He felt that there was a value of having organized sports.

Mayor Pro Tempore Carr concurred with the comments expressed by Council Member Tate. However, he did not know how you would calculate the value of the exclusive right to use the fields. He agreed with the statement that taxes are paid for the parks and the fields but that the taxes did not pay for the exclusive right for one group to use the fields.

Mayor Kennedy concurred with comments expressed by Council Member Tate and Mayor Pro Tempore Carr as well as the comments made by Council Member Chang that this fee represents such a small amount of revenue in the grand scheme of things. He did not want to jeopardize the non profit youth organization who provides a wonderful service to the community's youth. However, he felt that the City needs to have a reasonable fee in place that is comparable to surrounding communities. He felt that it would be helpful to have an easier to read comparison table.

Action: *On a motion by Mayor Pro Tempore Carr and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Sellers absent, continued this item to July 17, 2002.*

City Manager Tewes stated that in the convening weeks, staff would make a special effort to inform the groups that are affected by this proposal. He informed the City Council that the YMCA monitors the Parks and Recreation Commission and attend their meetings. He stated that the Parks and Recreation Commission has been discussing this issue at several meetings and that the Executive Director of the YMCA is familiar with this project.

15. EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-02-06: CENTRAL - CENTRAL PARK – Resolution No. 5590

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Sellers absent, Adopted Resolution No. 5590.*

Redevelopment Agency Action

OTHER BUSINESS:

16) MORGAN HILL DOWNTOWN ASSOCIATION (MHDA) AGREEMENT

Director of Business Assistance and Housing Services Toy presented the staff report. He informed the City Council that Dan Craig, Interim Executive Director for the Association, was in attendance as well as two board members who are available to make a presentation on their proposal.

Dan Craig informed the Agency Members that the Association is looking at the first quarter to develop a work plan. The proposal before the Redevelopment Agency covers where the Association is and where they will be going. He said that the scope of work has been broken into the first quarter and that the second part would be the annual work program. He felt that it was important, in developing a work program, that there is broad participation and a good turn out from businesses and community members. He stated that a gathering is planned for July 18 at Maurizzios from 4-8 p.m. He is assuring businesses that something new is happening, and getting them to be a part of the planning process (buy in) in order to proceed with the work program. He noted that a lot of specific things are proposed as part of the first quarter that are related to setting up an office and accounting system. He assured the Agency that the Association plans to proceed with the work program once it is established in July. The Association plans to bring back to the Agency the work program and the items that have been accomplished in the quarter in September. He said that a kick off reception will be held Thursday, June 27. The Association hopes to see group advertising, publicity efforts to market the downtown, newsletter, and meetings with the Hometown Holidays group to coordinate for the community and cultural center planning as well as open communication.

Sunday Minnich, Board Member of the Downtown Association, stated that there is an interim board of 7 voting members. A staff member and City liaison are not voting members.

Mr. Toy informed the Agency that the Association has a nine-member board. On this board, the City has a liaison with staff serving on an interim basis. He stated that staff would like the Board to consider appointing someone on a permanent basis to sit on the Board.

Agency Member Tate indicated that Agency Member Sellers feels he serves on this Board.

Mr. Toy clarified that Agency Member Sellers serves on the interim board but that he is not serving in the official City liaison role.

Agency Member Tate recommended that the Agency have Agency Member Sellers' concurrence before appointing him to the board.

Agency Member Carr inquired whether the Association was looking for an Agency Member besides Agency Member Sellers to serve on the Board as he serves in another capacity on the interim board?

Ms. Minnich indicated that she is a board member of the Downtown Association. She stated that the Association was structured with an interim board of 7 voting members, with Agency Member Sellers as one of the voting members on the interim board. She indicated that a City staff liaison and a Chamber Liaison are non voting board members who make up a 9-member board. She clarified

that Agency Member Sellers is currently a voting member. It was her belief that Mr. Toy was requesting that a staff liaison be appointed to the Board as a non voting member.

Mr. Toy clarified that should the Agency wish to appoint someone to represent the City as the City's liaison on the board that it not be a city staff member as city staff would always attend the meetings and work closely with the Association. He is not proposing that staff sit on the board on any official capacity.

Mayor Kennedy inquired whether the bylaws require a voting member from the Redevelopment Agency?

Mr. Craig stated that the City liaison would serve as an ex officio member and not as a voting member because there would be a built in conflict of interest otherwise. He stated that the City would need to appoint the ex officio member.

Agency Member Tate indicated that Agency Member Sellers was helping the Association get organized and that once organized, the Association would have their own board without an Agency Member serving on the board.

Mr. Craig indicated that the Association would be shifting from an interim mode to a permanent mode in the next several weeks, as long as it takes to fill vacancies, file tax exemption and complete a few other loose ends that need to be taken care of. The Association is looking at a City appointment in an ex officio capacity.

Chairman Kennedy requested that staff agendaize the appointment of an Agency Member to serve as the City's ex officio member at one of the upcoming meetings.

No other comments were offered.

In response to Agency Member Carr's question, Mr. Toy indicated that the \$250,000 would come from the Economic Development funds.

Action: *On a motion by Agency Member Tate and seconded by Vice-chairwoman Chang, the Redevelopment Agency, on a 4-0 vote with Agency Member Sellers absent, **Authorized** the Executive Director to negotiate and execute an agreement, subject to Agency General Counsel Approval, with the Morgan Hill Downtown Association in an amount not to exceed \$86,000.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were noted.

ADJOURNMENT

There being no further business, Chairperson/Mayor Kennedy adjourned the meeting at 10:25 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, City Clerk/Agency Secretary